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PETITION OF

UNITED TELEPHONE-SOUTHEAST, INC.

CASE NO. PUC-2002-00231

**For Declaratory Judgment
Interpreting Various Sections of the
Code of Virginia, For Injunction
Prohibiting the City of Bristol from
Providing Telecommunications
Services in Violation of State Law
and for Other Relief**

HEARING EXAMINER'S RULING

January 27, 2003

On December 12, 2002, United Telephone-Southeast, Inc. ("Sprint"), filed a petition for Declaratory Judgment Interpreting Various Sections of the Code of Virginia, for Injunction Prohibiting the City of Bristol from Providing Telecommunications Services in Violation of State Law and for Other Relief ("Petition"). Specifically, Sprint requested that: (i) its complaint against the City of Bristol d/b/a Bristol Virginia Utilities Board ("Bristol") be upheld; (ii) the Commission determine that Bristol has failed to comply with Virginia Law and that Bristol be required to come into compliance with applicable law; (iii) the Commission declare that Bristol is in violation of §§ 15.2-2160 A and D, 56-241.1, and 56-265.4:4 of the Code of Virginia; (iv) the Commission issue an injunction against Bristol prohibiting it from providing telecommunications services to the public until it has complied with the conditions set forth in Virginia law regarding the offering of telecommunications services by electric municipalities; (v) Bristol's proposed tariff be rejected, or in the alternative, suspended by the Commission until the tariff is compliant; and (vi) the Commission grant such other relief as is just and proper.

Based on the Petition, Bristol's Response filed on December 18, 2002, and the applicable law, the Commission issued an Order on December 19, 2002, in which it: (i) denied Sprint's request for injunctive relief; (ii) rejected Bristol's tariff submitted on November 27, 2002; (iii) ordered Bristol to file a revised tariff on or before December 26, 2002; (iv) assigned this matter to a Hearing Examiner; (v) directed the Staff to participate in this case; and (vi) ordered Bristol to file cost studies to support the prices for its basic local exchange service on or before January 31, 2003.

On January 13, 2003, Bristol filed a Motion for Extension of Time to File the Cost Study on Basic Local Exchange Service. Bristol explained that it recently had hired a consultant to prepare a total service long-run incremental cost ("TSLRIC") study and requested an extension until June 2, 2003, to complete the study. Counsel for Bristol advised that Sprint did not oppose the requested extension, provided that the extension is limited to sixty days. In addition, counsel for Bristol stated that Staff did not support or oppose the requested extension.

On January 24, 2003, a prehearing conference was held in the Commission's offices and attended by this Hearing Examiner and representatives of Sprint, Bristol, and Staff. During that meeting, the parties agreed to negotiate the specific methodology to be used to complete the ordered cost study and advise the Hearing Examiner on the agreed upon cost study methodology and any areas of disagreement on or before March 10, 2003. In addition, the parties agreed that Bristol's cost study should be filed ninety calendar days after the parties reach agreement on the cost study methodology or the Hearing Examiner rules on any areas of disagreement. Finally, the parties agreed to a general outline of a procedural schedule for the remainder of the case, including: (i) approximately forty days for Sprint, Staff, and any other interested party to file comments on Bristol's cost study; (ii) approximately thirty days for Bristol's response; and (iii) if necessary, a hearing to be held approximately five days after Bristol's response. Accordingly,

IT IS DIRECTED:

(1) That the parties shall file a joint statement outlining the cost study methodology agreed upon by the parties, and any areas of disagreement between the parties regarding cost study methodology, on or before March 10, 2003;

(2) That the date for Bristol to file its cost studies to support the prices for its basic local exchange service shall be extended from January 31, 2003, pending further rulings from the Hearing Examiner, consistent with the outline discussed above;

(3) That, as provided in 5 VAC 5-20-140, the parties and Staff shall e-mail any formal pleading, brief, or other document filed with the Commission to the service list at the time they file such pleading, brief or document with the Commission. The parties and Staff shall continue to be required to file an original and required number of copies with the Clerk of the Commission as otherwise specified in the Commission's Rules of Practice and Procedure; and

(4) That to facilitate discovery, parties shall provide responses to discovery within ten business days, and any objections to discovery must be provided within three business days.

Alexander F. Skirpan, Jr.
Hearing Examiner